

40E-1.021 Definitions.

When used in this chapter, Chapters 40E-4, Chapters 40E-40, 40E-41 and 40E-400,

F.A.C.:

(1) "E-Permitting website" means the District's website address for e-permitting at <http://my.sfwmd.gov/ePermitting>.

(2) "Electronic filing" means filing or submission of an Environmental Resource, Surface Water Management Permit or Consumptive Use Permit Application; Response to Request for Additional Information; or Request for Permit Transfer at the District's e-permitting website. Electronic filing is governed by the provisions of Chapter 668, F.S. If the applicant or sender of electronic data inhibits the ability of the District to store or print the electronic data, it shall not be considered filed with or received by the District. Filings received by the District after 5:00 p.m. shall be deemed filed on the next regular business day.

(3) "Electronic mail" means an electronic or computer file that is transmitted between two or more telecommunications devices; computers; computer networks, regardless of whether the network is a local, regional, or global network; or electronic devices capable of receiving electronic messages, regardless of whether the message is converted to hard copy format after receipt, viewed upon transmission, or stored for later retrieval. Electronic mail received after 5:00 p.m. shall be deemed received on the next regular business day.

(4) “Electronic record” means information that is stored in an electronic medium and is retrievable in a perceivable form, including public records as defined in Section 119.011, Florida Statutes.

(5) “Electronic signature” means an electronic sound, symbol, or process attached to an electronic record and executed or adopted by a person with the intent to sign the record.

Specific Authority 373.044, 373.113 FS. Law Implemented 668.50 FS. History–New .

40E-1.5095 Publication of Notice of Agency Decision or Intended Agency Decision.

In cases where a project is determined to be of heightened public concern, or where there is the likelihood of a request for an administrative hearing, where the proposed activity is potentially harmful to the water resources of the District or contrary to the overall objectives of Chapter 373, F.S., as outlined in Section 373.016, F.S., or if objection(s) to the application has been received, the District shall publish, or require the permit applicant to publish notice of agency decision or intended agency decision in the Florida Administrative Weekly or newspapers of general circulation in the area affected by such decisions as required by Chapter 50, F.S., and shall post notice and ~~mail~~ send by regular United States mail or electronic mail copies of its notice to applicants and interested groups. Such publication may be used as evidence of constructive and sufficient notice.

Specific Authority 120.54(5), 373.044, 373.113 FS. Law Implemented 120.54(5), 120.569, 120.57, 373.146, 373.413 FS. History–New 7-2-98, Amended 6-12-00, _____.

40E-1.511 Point of Entry Into Proceedings.

Procedures regarding point of entry into proceedings determining substantial interests and mediation are set forth in the Uniform Rules of Procedure Rule 28-106.111, F.A.C. The following exceptions are applied in combination with the applicable Uniform Rules of Procedure.

(1)(a) "Receipt of written notice of agency decision" as set forth in Rule 28-106.111, F.A.C., means receipt of either written notice through regular United States mail, electronic mail, or posting that the District has or intends to take final agency action, or publication of notice that the District has or intends to take final agency action.

(b) No Changes.

(2) through (3) No Changes.

Specific Authority 120.54(5), 373.044, 373.113 FS. Law Implemented 120.54(5), 120.569, 120.57, 120.60, 373.146, 373.413, 373.427 FS. History—New 9-3-81, Amended 7-26-87, 5-11-93, 10-3-95, 7-2-98, 6-12-00, _____.

40E-1.603 Application Procedures for Conceptual Approval, Individual and General Permits.

(1) (a) through (e) No Changes.

(2) No Changes.

(3)(a) through (d) No Changes.

(e) Noticed general permits under Chapter 40E-400, F.A.C., may be utilized by the applicant 30 days after the District receives the notice of intent, unless a notice that the project does not qualify for the noticed general permit is ~~mailed~~ sent by regular United States mail or electronic mail by the District within 30 days, in accordance with

Rule 40E-400.211, F.A.C. If notice that the proposed project does not qualify for the noticed general permit is ~~mailed~~ sent by regular United States mail or electronic mail by the District to the applicant, the review process under subsection (1) shall be initiated or the applicant shall be required to apply for the appropriate permit if the requested activity is not covered by the noticed general permit rule.

Specific Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 120.60, 373.107, 373.109, 373.116, 373.229, 373.417, 373.421, 373.422 FS. History—New 9-3-81, Formerly 16K-1.08(1)-(8), Amended 7-1-86, 7-26-87, 11-21-89, 5-11-93, 10-3-95, 4-1-96, 7-2-98, 6-12-00, _____.

40E-1.6058 Publication and Requests for Notification of Permit Applications or Notices of Intent.

(1) ~~Written~~ Notice of Receipt of Permit Application or Notice of Intent.

~~(a)~~ Persons who wish to be notified in writing or by electronic mail of any permit application or notice of intent which affects a designated geographic area shall notify the District in writing or by electronic mail and shall specify their area of interest by county. Requests must be renewed every 6 months. The District shall provide ~~written~~ notice in writing or by electronic mail of receipt of application or notice of intent to all persons who have filed in the preceding 6 months a written or electronic request for notification of any application or notice of intent affecting the designated geographic area in which the proposed activity is to occur.

~~_____ (b) Notices of intent for general permits shall be posted in the District Service Center responsible for reviewing the notice of intent.~~

(2) (a) through (c) No Changes.

(3) No Changes.

(4) Persons who wish to be advised of the proposed agency action regarding a particular permit application shall file a written or electronic request for further notice within 14 days of receipt of the notice of application.

(5) The governing board may charge a subscription fee for information requested in accordance with this section to any person who has filed a written or electronic request for notification of any pending applications, pursuant to Rule 40E-1.125, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 120.53(1), 120.60(3) FS.

History—New 10-3-95, Amended 7-2-98, 6-12-00, _____.

40E-1.6065 Consideration of Intended Agency Decision on Permit Applications.

(1) No Changes.

(2) The Governing Board shall consider the application for a conceptual approval, individual environmental resource, individual surface water management, or individual water use permit application at its next available regularly scheduled regulatory meeting following the mailing or electronic mailing of notice of intended agency decision, unless an administrative hearing is requested and granted pursuant to Section 120.569, F.S.

(3) No Changes.

(4) Because the Governing Board may take a final agency action which materially differs from the noticed intended agency action, applicants and other interested persons should be prepared to defend their position regarding the permit application when it is considered by the Governing Board. If the Governing Board takes final agency action which materially differs from the intended agency decision, the

District shall mail by regular United States mail or electronic mail a notice of the final agency action to all persons who were notified of the intended agency decision.

Specific Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 120.60, 373.107, 373.109, 373.116 FS. History—New 7-2-98, Amended 6-12-00, _____.

40E-1.6105 Notification of Transfer of Interest in Real Property.

Within 30 days of any transfer of interest or control of the real property at which any permitted facility, system, consumptive use, or activity is located, the permittee must notify the District, in writing or electronically at the District's e-permitting website of the transfer giving the name and address of the new owner or person in control and providing a copy of the instrument effectuating the transfer. Notification of a transfer shall not constitute a permit transfer pursuant to Rule 40E-1.6107, F.A.C.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.083, 373.171, 373.309, 373.416, 373.426, 373.429, 373.436 FS. History—New 5-11-93, _____.

40E-1.6107 Transfer of Environmental Resource, Surface Water Management, or Water Use Permit.

(1) To transfer an environmental resource, surface water management, or water use permit, the permittee, in addition to satisfying the applicable provisions in Rules 40E-2.351 and 40E-4.351, F.A.C., must provide information required in Rule 40E-1.6105, F.A.C., and file a ~~together with a written~~ statement from the proposed transferee in writing or at the District's e-permitting website that it has reviewed the District permit and project design and will be bound by all terms and conditions of the permit, including all compliance requirements, for the duration of the permit.

(2) through (4) No Changes.

Specific Authority 120.53(1), 373.044, 373.113 FS. Law Implemented 373.083, 373.171,

373.309, 373.416, 373.426, 373.429, 373.436 FS. History—New 5-11-93, Amended 10-3-95, _____.

40E-1.615 Coordinated Agency Review Procedures for the Florida Keys Area of Critical State Concern.

(1) No Changes.

(2) (a) through (b) No Changes.

(3) (a) through (c) No Changes.

(d) If the applicant waives the time limits required by Chapter 120 and Section 380.051, F.S., as set forth in Rule 9J-19.007, F.A.C., the District shall delay initiation of substantive review until ~~written~~ notice is received by electronic mail at the District's e-permitting website or in writing from the Permit Coordinator indicating that substantive review should begin, as provided in subsection 9J-19.007(3) (Coordination of Time for Sufficiency Review), F.A.C. If the applicant does not waive the time limits, the District shall begin substantive review when the Coordinated Review Application is complete.

Specific Authority 373.044, 373.113, 380.051 FS. Law Implemented 380.051 FS.

History—New 9-22-87, Amended 10-3-95, _____.

40E-4.021 Definitions.

When used in this chapter, Chapters 40E-1, 40E-40, 40E-41 and 40E-400, F.A.C.:

(1) through (11) No Changes.

(12) “E-Permitting website” means the District’s website address for e-permitting at <http://my.sfwmd.gov/ePermitting>.

(13) “Electronic filing” means filing or submission of an Environmental Resource, Surface Water Management Permit or Consumptive Use Permit Application; Response to Request for Additional Information; or Request for Permit Transfer at the District's e-permitting website. Electronic filing is governed by the provisions of Chapter 668, F.S. If the applicant or sender of electronic data inhibits the ability of the District to store or print the electronic data, it shall not be considered filed with or received by the District. Filings received by the District after 5:00 p.m. shall be deemed filed on the next regular business day.

(14) “Electronic mail” means an electronic or computer file that is transmitted between two or more telecommunications devices; computers; computer networks, regardless of whether the network is a local, regional, or global network; or electronic devices capable of receiving electronic messages, regardless of whether the message is converted to hard copy format after receipt, viewed upon transmission, or stored for later retrieval. Electronic mail received after 5:00 p.m. shall be deemed received on the next regular business day.

(15) “Electronic record” means information that is stored in an electronic medium and is retrievable in a perceivable form, including public records as defined in Section 119.011, Florida Statutes.

(16) “Electronic signature” means an electronic sound, symbol, or process attached to an electronic record and executed or adopted by a person with the intent to sign the record.

(17)~~(12)~~ “Embedment” means the placement of transmission or distribution lines, pipes or cables into the bottoms of waters of the State by minimal displacement of bottom material and without the creation of a trench, or trough, through the use of techniques such as plowing-in, weighing -in, or non-trenching jets.

(18)~~(13)~~ “Endangered species” means those animal species which are listed as endangered in Rule 68A-27.003, F.A.C., and those plant species which are listed in 50 Code of Federal Regulations 17.12, when such plants are found to be located in a wetland or other surface water.

(19)~~(14)~~ “Entrenchment” means the placement of transmission or distribution lines, pipes or cables into the bottoms of waters of the State by the creation of a defined trench, or trough, through the use of such devices as clamshells, dredges, trenching jets, or other devices which produce similar results.

(20)~~(15)~~ “Environmental resource permit” means a conceptual approval, individual or general permit for a surface water management system issued pursuant to Part IV, Chapter 373, F.S. Environmental resource permit also means a conceptual or individual permit for the establishment and operation of a mitigation bank.

(21)~~(16)~~ “Estuary” means a semi-enclosed, naturally existing coastal body of water which has a free connection with the open sea and within which seawater is measurably diluted with fresh water derived from riverine systems.

~~(22)~~(17) “Filling” means the deposition, by any means, of materials in surface waters or wetlands, as delineated by Section 373.4211, F.S.

~~(23)~~(18) “General Permit” means a no notice, noticed or standard general environmental resource permit issued by District staff. However, staff recommendations for denial of noticed or standard general permit applications shall be considered by the Governing Board.

~~(24)~~(19) “Impoundment” means any lake, reservoir, pond, or other containment of surface water occupying a bed or depression in the earth’s surface and having a discernible shoreline.

~~(25)~~(20) “Incidental site activities” means those certain site activities in uplands which may be conducted in conjunction with the work proposed in an environmental resource permit application such as: land clearing in uplands; minimal earthwork, lake construction; road subgrade construction; foundation construction; utility installation; fence installation; construction trailer installation; unconnected drainage facility construction; or other similar activities.

~~(26)~~(21) “Individual Permit” means an environmental resource permit issued by the District Governing Board.

~~(27)~~(22) “Isolated Wetland” means any wetland without a direct hydrologic connection to a lake, stream, estuary, or marine water.

~~(28)~~(23) “Lagoon” means a naturally existing coastal zone depression which is below mean high water and which has permanent or ephemeral communications with the sea, but which is protected from the sea by some type of naturally existing barrier.

~~(29)~~(24) "Listed Species" means those animal species which are endangered, threatened or of special concern and are listed in Rules 68A-27.003, 68A-27.004 and 68A-27.005, F.A.C., and those plant species listed in 50 Code of Federal Regulations 17.12.

~~(30)~~(25) "Maintenance" or "Repairs" means remedial work of a nature as may affect the safety of any dam, impoundment, reservoir, or appurtenant work or works, but excludes routine custodial maintenance.

~~(31)~~(26) "Operation Permit" means a permit issued by the District authorizing the operation and maintenance of a surface water management system in accordance with the terms and conditions of the permit.

~~(32)~~(27) "Other Surface Waters" means surface waters as described and delineated pursuant to Rule 62-340.600, F.A.C., as ratified by Section 373.4211, F.S., other than wetlands.

~~(33)~~ "Posting" means placing notice on the District's website or on one of the District's official posting bulletin boards.

~~(34)~~(28) "Riprap" means a sustaining wall made to reduce the force of waves and to protect the shore from erosion and consists of unconsolidated boulders, rocks, or clean concrete rubble with no exposed reinforcing rods or similar protrusions.

~~(35)~~(29) "Species of Special Concern" means those animal species listed in Rule 68A-27.005, F.A.C.

~~(36)~~(30) "State Water Quality Standards" means water quality standards adopted pursuant to Chapter 403, F.S.

~~(37)~~(31) “Stormwater Management System” means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, incorporating methods to collect, convey, store, absorb, inhibit, treat, use or reuse water to prevent or reduce flooding, over drainage, environmental degradation, and water pollution or otherwise affect the quantity and quality of discharges from the system.

~~(38)~~(32) “Surface Water Management Permit” means a permit issued pursuant to Chapter 40E-4 or 40E-40, F.A.C., prior to October 3, 1995, or that is grandfathered pursuant to Sections 373.414(11)-(16), F.S.

~~(39)~~(33) “Surface Water Management System” or “System” means a stormwater management system, dam, impoundment, reservoir, appurtenant work or works, or any combination thereof. The terms “surface water management system” or “system” includes areas of dredging or filling as defined by Section 373.403(13) and (14), F.S., respectively.

~~(40)~~(34) “Threatened Species” means those animal species listed in Rule 68A-27.004, F.A.C., and those plant species which are listed as threatened in 50 Code of Federal Regulations 17.12.

~~(41)~~(35) “Total Land Area” means land holdings under common ownership which are contiguous or land holdings which are served by common surface water management facilities.

~~(42)~~(36) “Vertical Seawall” is a seawall the waterward face of which is at a slope greater than 75 degrees to the horizontal. A seawall with sloping riprap covering the waterward face to the mean high water line shall not be considered a vertical seawall.

~~(43)(37)~~ “Watershed” means the land area which contributes to the flow of water into a receiving body of water.

~~(44)(38)~~ “Wetlands” means those areas that are inundated or saturated by surface water or ground water at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Soils present in wetlands generally are classified as hydric or alluvial, or possess characteristics that are associated with reducing soil conditions. The prevalent vegetation in wetlands generally consists of facultative or obligate hydrophytic macrophytes that are typically adapted to areas having soil conditions described above. These species, due to morphological, physiological or reproductive adaptation, have the ability to grow, reproduce, or persist in aquatic environments or anaerobic soil conditions. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto. The landward extent of wetlands is delineated pursuant to Rules 62-340.100 through 62-340.550, F.A.C., as ratified by Section 373.4211, F.S.

~~(45)(39)~~ “Wetland Resource Permit” means a permit issued pursuant to Chapter 62-312, F.A.C., prior to October 3, 1995, or that is grandfathered pursuant to Sections 373.414(11)-(16), F.S.

~~(46)(40)~~ “Works” means all artificial structures, including but not limited to ditches, canals, conduits, channels, culverts, pipes, and other construction that

connects to, draws water from, drains water into, or is placed in or across the waters in the state.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.019, 373.403-.443, 403.031, 668.50, 704.06 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-1.05(1), Amended 7-1-86, 4-20-94, 10-3-95, 4 -1-96, _____.

40E-4.091 Publications, Rules and Interagency Agreements Incorporated By Reference.

(1) The following publications, rules and interagency agreements are incorporated by reference into this chapter, Chapters 40E-40, 40E-41 and 40E-400, F.A.C.:

(a) “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District – _____~~December 7, 2004~~”.

(b) through (k) No Change.

(2) No Change.

Specific Authority 373.044, 373.103(8), 373.113, 373.171, 373.413, 373.441 FS.

Law Implemented 373.413, 373.4135, 373.4137, 373.414, 373.4142, 373.416, 373.418, 373.421, 373.426, 373.441 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.035(1), Amended 5-1-86, 7-1-86, 3-24-87, 4-14-87, 4-21-88, 11-21-89, 11-15-92, 1-23-94, 4-20-94, 10-3-95, 1-7-97, 12-3-98, 5-28-00, 8-16-00, 1-17-01, 7-19-01, 6-26-02, 6 -26-02, 4 -6-03, 4-14-03, 9-16-03, 12-7-04, _____.

40E-4.101 Content of Permit Applications.

(1) Applications for permits required by this chapter shall be filed with the District Service Center which will review the application as set forth in Rule 40E-1.6025, F.A.C., or filed electronically at the District's e-permitting website. The application shall contain:

(a) No Changes.

(b) One original and four copies of Joint Water Management District/Department of Environmental Protection/U.S. Army Corps of Engineers Environmental Resource Permit Application Form No. 0971 and five copies of drawings, calculations, environmental information, and engineering details sufficient to define the nature, scope, intent and functioning of the work proposed. This information must include at a minimum: flood protection, water quality, environmental impacts, proposed mitigation, water supply, and water conservation elements. Applicants who file an application electronically are not required to submit copies.

(2) through (4) No Changes.

Specific Authority 373.016, 373.044, 373.113, 373.171 FS. Law Implemented 373.016, 373.117, 373.413, 373.416, 373.426 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.03(2), 16K-4.07(2), 16K-4.09(2), Amended 7-1-86, 11-21-89, 4-20-94, 10-3-95, 5-28-00, 4-14-03, 8-14-03, _____.

40E-4.321 Duration of Permits.

(1) (a) through (e) No Changes.

(2)(a) Unless prescribed by special permit condition, permits expire automatically according to the timeframes indicated in this rule. If application for extension is made by

electronic mail at the District's e-permitting website or in writing pursuant to subsection (3), the permit shall remain in full force and effect until:

1. The Governing Board takes action on an application for extension of an individual permit, or
2. Staff takes action on an application for extension of a standard general permit.

(b) No Changes.

(3) through (7) No Changes.

Specific Authority 373.044, 373.113 FS. Law Implemented 373.413, 373.416, 373.419, 373.426 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(4), Amended 7-1-86, 4-20-94, 10-3-95, 5-28-00, _____.

40E-4.381 General Conditions.

(1) (a) through (f) No Changes.

(g) The operation phase of this permit shall not become effective: until the permittee has complied with the requirements of condition (f) above, has submitted a Request for Conversion of Environmental Resource/Surface Water Management Permit from Construction Phase to Operation Phase and Transfer of Permit to the Operating Entity Form No. 0920, incorporated by reference in Rule 40E-1.659, F.A.C.; the District determines the system to be in compliance with the permitted plans and specifications ; and the entity approved by the District in accordance with Sections 9.0 and 10.0 of the “Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District—~~April 2003,~~” accepts responsibility for operation and maintenance of the system. The permit shall not be transferred to such approved

operation and maintenance entity until the operation phase of the permit becomes effective. Following inspection and approval of the permitted system by the District, the permittee shall initiate transfer of the permit to the approved responsible operating entity if different from the permittee. Until the permit is transferred pursuant to Rule 40E-1.6107, F.A.C., the permittee shall be liable for compliance with the terms of the permit.

(h) No changes.

(i) For those systems that will be operated or maintained by an entity that will require an easement or deed restriction in order to enable that entity to operate or maintain the system in conformance with this permit, such easement or deed restriction must be recorded in the public records and submitted to the District along with any other final operation and maintenance documents required by Sections 9.0 and 10.0 of the "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District —~~April 2003~~," prior to lot or unit sales or prior to the completion of the system, whichever occurs first. Other documents concerning the establishment and authority of the operating entity must be filed with the Secretary of State where appropriate. For those systems which are proposed to be maintained by the county or municipal entities, final operation and maintenance documents must be received by the District when maintenance and operation of the system is accepted by the local government entity. Failure to submit the appropriate final documents will result in the permittee remaining liable for carrying out maintenance and operation of the permitted system and any other permit conditions.

(j) Should any other regulatory agency require changes to the permitted system, the permittee shall notify the District by electronic mail at the District's e-permitting

website or in writing of the changes prior to implementation so that a determination can be made whether a permit modification is required.

(k) through (o) No Changes.

(p) The permittee shall notify the District by electronic mail at the District's e-permitting website or in writing within 30 days of any sale, conveyance, or other transfer of ownership or control of a permitted system or the real property on which the permitted system is located. All transfers of ownership or transfers of a permit are subject to the requirements of Rules 40E- 1.6105 and 40E-1.6107, F.A.C. The permittee transferring the permit shall remain liable for corrective actions that may be required as a result of any violations prior to the sale, conveyance or other transfer of the system.

(q) through (r) No Changes.

(s) The permittee shall immediately notify the District by electronic mail at the District's e-permitting website or in writing of any previously submitted information that is later discovered to be inaccurate.

(2) No Changes.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.116, 373.229, 373.413, 373.416, 373.421, 373.422, 373.426 FS. History—New 9-3-81, Amended 1-31-82, 12-1-82, Formerly 16K-4.07(3), 16K-4.38, Amended 7-1-86, 4-20-94, 10-3-95, 1-7-97, 4 -14-03, 9-16-03, _____.

(The following represents proposed changes to the document entitled "Basis of Review for Environmental Resource Permit Applications within the South Florida Water Management District - December 7, 2004" incorporated by reference in Rule 40E-4.091, F.A.C.)

4.3.9.3

(a) and (b) No Change

(c) Melaleuca eradication plans shall be submitted to the appropriate District Service Center serving the area in which the activity is proposed as designated in Rule 40E-1.6025, F.A.C., and shall be accompanied by the information required in subsection 4.3.9.

1. District staff shall notify the applicant in writing via regular United States mail or electronic mail of its proposed recommendation that the Governing Board approve or deny the eradication plan. This notification shall occur within sixty (60) days following receipt of a completed eradication plan. If staff's recommendation is for approval, the District shall also simultaneously forward a draft stewardship agreement to the applicant for review, approval and execution.

2. No Change.

3. The applicant shall be notified of the date and time of this meeting - or any subsequent meeting if final agency action is not taken - via regular United States mail or electronic mail to be received by the applicant at least 7 days in advance of the Governing Board meeting.

PART I LAKE OKEECHOBEE DRAINAGE BASIN

40E-61.020 Scope of Part I.

PART I LAKE OKEECHOBEE DRAINAGE BASIN

40E-61.020 — Scope of Part I.

(1) through (4) No Change.

(5) In this rule chapter the "Works Of The District Within The Lake Okeechobee Drainage Basin" are specifically named. These include canals, water control structures, rights-of-way, lakes and streams and other water resources which the South Florida Water Management District owns, has accepted responsibility for, or has specifically named. All lands within the Lake Okeechobee Drainage basin are presumed to be users of the Works Of The District Within The Lake Okeechobee Drainage Basin, and as such, must comply with the provisions of this rule chapter. Any owner of a parcel of land in the Basin, unless exempt, must obtain a General Permit or an Individual Permit, and comply with applicable water quality performance limitations.

(a) The District reserves the right to modify the limitations (including assimilative coefficient) in this rule as applied to one or more parcels of land if the District obtains or is presented with evidence that the limitations applicable to the parcels are insufficient to properly control the discharge of phosphorus to Lake Okeechobee, so that the District's ability to fulfill its responsibility to improve and protect the water quality of Lake Okeechobee is threatened. If the District obtains or is presented evidence that the soil types and other factors influencing an assimilative coefficient are generally the same within the southern portion of the East Caloosahatchee Basin tributary to S-77, the Board may extend the assimilative coefficient to all areas of the Basin with common soil

types and other factors influencing assimilative capacity. Modifications shall be based upon competent substantial evidence. Affected landowners shall be notified of any proposed modifications by publication of Notice of Rulemaking, by electronic mail, or in writing by certified mail and be provided an opportunity to request a proceeding pursuant to section 120.57, Florida Statutes.

(b) No Change.

(6) through (7) No Change.

Specific Authority 373.044, 373.113 FS.

Law Implemented 373.016, 373.085, 373.086, 373.451, 373.453, 373.4595 FS.

History — New 11-1-89, Amended.

40E-61.031 — Implementation.

(1) through (2) No Change.

(3) The District shall adjust the dates specified in subsection (2) above when monitoring data or other circumstances indicate that other specific action may be necessary to protect the water quality of Lake Okeechobee. The District shall provide notice of adjusted application dates, by electronic mail, or in writing, by certified mail to the affected parcel owners.

(4) through (6) No Change.

Specific Authority 373.044, 373.113 FS.

Law Implemented 373.085, 373.086, 373.451, 373.453, 373.4595 FS.

History — New 11-1-89, Amended.

40E-61.042 — General Permits for Use of Works of the District Within the Lake Okeechobee Basin.

(1)(a) through 1(b) No Change.

(c) No Notice of Intent is required unless the District's monitoring program or other data indicates that discharge from a parcel or sub-basin is not in compliance with the applicable discharge concentration limitation. The total phosphorus concentration exceedance values specified in Table 40E-61-2 and procedures described in 40E-61.381(2)(b), F.A.C., shall be used in evaluating whether the discharge from a parcel or sub-basin exceeds the allowable concentration. A Notice of Intent pursuant to Rule 40E-61.042(2)(b), F.A.C., below or an application for an Individual Permit pursuant to Rule 40E-61.041(2)(a), F.A.C., shall be required for parcels or sub-basins not in compliance. Notice of the requirements shall be provided to sub-basins by Notice of Rulemaking or to individual parcel owners by electronic mail or in writing by certified mail.

(2)(a) through (2)(c) No Change.

(d) Limiting Conditions:

1. If requested by the District by electronic mail or in writing by certified mail, the permittee shall provide the monitoring data described in Rule 40E-61.381(2)(a), F.A.C.

2. through 3. No Change.

Specific Authority 373.044, 373.113, 373.118 FS.

Law Implemented 373.016, 373.085, 373.086, 373.451, 373.453, 373.4595 FS.

History — New 11-1-89, Amended_____.

40E-61.321 — Duration of Permits.

(1) Unless revoked or otherwise modified, the duration of an individual permit or general permit issued pursuant to this chapter is three years from the date of issuance. These permits are extended automatically for another three year period, unless the District advises the permittee by electronic mail or in writing at least 90 days prior to the expiration date that the permit will not be automatically extended. Permits not automatically extended expire three years from the date of issuance unless an application for a renewal is filed (Rule 40E-61.101, F.A.C.).

(2) General permits remain effective until this rule section is amended or the District notifies a permittee by electronic mail or in writing by certified mail pursuant to Rule 40E-61.042(1)(c) or Rule 40E-61.042(2)(d)2. that the permit is revoked.

(3) No Change.

Specific Authority 373.044, 373.113 FS.

Law Implemented 373.451, 373.453, 373.4595 FS.

History — New 11-1-89, Amended 1-1-97, _____.

40E-61.381 — Limiting Conditions.

(1) through (2)(a) No Change.

(b) Off-site phosphorus discharge shall not exceed the applicable Off-site Total Phosphorus Discharge Concentration or other limitation specified in the permit.

1. The District may use the criteria in Table 40E-61-2, in addition to other available information and data, to evaluate whether the off-site phosphorus discharge from the parcel exceeds the limitation specified in the permit. If the offsite discharge from the parcel exceeds the criteria specified in Table 40E-61-2, there is greater than a 50% probability that the applicable annual off-site phosphorus concentration limitation will be

exceeded. If the limitations on Table 40E-61-2 are exceeded, the District shall immediately notify the permittee by electronic mail or in writing and request that additional measures be taken to ensure that compliance with limitations is maintained.

2. Permittees shall be allowed a reasonable period of time to institute the additional measures. The District shall determine the additional time allowed to institute the measures and demonstrate compliance by electronic mail or in writing as an addendum to the permit.

3. No Change.

(c) through (d) No Change.

(e) The permittee shall notify the District by electronic mail at the District's ePermitting website or in writing when any significant change in land use is made on the permitted parcel. The discharge from the parcel shall comply with the applicable Off-site Total Phosphorus Discharge Concentration or other limitation specified in the permit notwithstanding any change in land use.

(f) through (j) No Change.

(k) The drainage and monitoring systems must be effectively operated and maintained, and any changes in drainage, land use or operations that could affect validity or interpretation of monitoring data must be reported by electronic mail at the District's ePermitting website or in writing to the District.

(l) through (o) No Change.

Specific Authority 373.044, 373.113 FS.

Law Implemented 373.016, 373.085, 373.086, 373.451, 373.453, 373.4595 FS.

History — New 11-1-89, Amended.

40E-400.211 Processing Procedures for Noticed General Permits.

(1) through (2) No Changes.

(3) If the District determines that the system does not qualify for a noticed general permit, the District shall so notify the applicant by regular United States mailing or electronic mail ~~a notification~~ within 30 days of receiving Form No. 0980. For the purposes of this subsection, District mailing or electronic mailing of notification shall be deemed to occur when the notice is sent electronically or is properly addressed, stamped, and deposited in the United States mail, and the postmark date shall be the date of mailing. When the District notifies the applicant that the system does not qualify for a noticed general permit due to an error or omission in the original notice to the District, the applicant shall have 60 days from the date of the notification to amend the notice to use the general permit and submit additional information to correct such error or omission. If the applicant amends the notice to use a noticed general permit and submits additional information correcting the error or omission within the 60 day time limit, no additional application fee will be required for the noticed general permit. If the District does not mail the notice informing the applicant that the system does not qualify for a noticed general permit within 30 days of receipt of the original notice to use the general permit, or receipt of amended notice to use the general permit, the applicant may conduct the activity authorized by the noticed general permit, except as otherwise provided in Rules 40E-400.475 and 40E-400.500, F.A.C.

(4) through (9) No Changes.

(10) At the time that the District has received the notice of intent, it will provide public notice that the notice of intent has been filed. Such public notice shall be sent by

regular United States mail or electronic mail to those people who have previously filed a written or electronic request for notification of pending applications within the affected area. The notice of intent for a noticed general permit shall be posted in the District Service Center responsible for reviewing the notice of intent.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.109, 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, Amended 7-2-98, _____.

40E-400.475 General Permit for Minor Activities.

(1) (a) through (e) No Changes.

(2) (a) through (f) No Changes.

(3) Persons wishing to qualify for this general permit must file a written or electronic request at the District's e-permitting website, describing the proposed activities and providing plans and other information necessary to evaluate the potential for adverse impacts from the proposed activities. Any persons proposing a system described in paragraph (1)(f) above, shall submit tax parcel information or other documentation, sufficient to establish that the property is not part of a tract of land that was divided into two or more parcels after July 1, 1994. The District will provide ~~written~~ notification in writing or by electronic mail to the applicant whether the proposed activity qualifies for this general permit within 30 days of submittal of the written or electronic request. The proposed activity may not commence until the District has provided ~~written~~ notice in writing or by electronic mail that the applicant qualifies for the general permit.

(4) through (6) No Changes.

Specific Authority 373.044, 373.113, 373.118 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History—New 10-3-95, _____.